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09/717,189	11/21/2000	Bernard H. Wolzenski	FSA090905USNP	9504

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EXAMINER	
GRAHAM, CLEMENT B	
ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/717,189	WOLZENSKI ET AL.	
	Examiner	Art Unit	
	Clement B. Graham	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-34 remained pending and claims 35-43 has been added.

2. 35 USC 101 Rejection has been withdrawn.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-19, 8-12, and 16-23, 25-39, are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan U.S Patent 6, 430, 542 in view Facciani et al (Hereinafter Facciani U.S. Patent No. 5, 999, 917).

As per claim 1, Moran discloses a computerized process for generating a financial and liquidity estate plan for a client ("i. e, member") said process comprising the steps of;

determining assets of the client.(see column 42 lines 10-40) defining a plurality of asset categories based on type and purpose of asset categorizing the client's assets in the defined categories.(Note abstract and see 17 lines 5-65 and column 18 lines 35-60) and performing liquidity analyses of the categorized assets to determine current estate liquidity and projected future estate liquidity of the client (see column 26 lines 23-65 and column 27 lines 1-9) and executing a computerized retirement protection to generate a plan for re-allocating the client's assets among the defined categories based on the liquidity analyses. (see column 46 lines 10-23).

Morgan fail to explicitly teach a plan providing a reallocation of at least a portion of the client's assets by purchasing a series of pre-paid death benefit amounts each of said pre-paid death benefit amounts being purchased by a one time premium.

However Facciani discloses the regulations that apply to these plans restrict the manner in which these plans can be funded. In essence, companies may not directly fund the liabilities created by these plans, whereas the companies can directly fund their

qualified plans. Instead of providing direct funding, a plan sponsor invests the unsecured deferrals in financial instruments of the plan sponsor's choosing (e.g., mutual funds, variable policy insurance policies, etc.) to cover the liability corresponding to each participant's investment choices. Because plan sponsors may not actually be investing in funds similar to the funds requested by the plan participants, plan sponsors need to have more immediate access to information regarding their plans. This enables the sponsor to cover its liabilities by reallocating its assets as participants reallocate their assets. The volume and timeliness of information is critical to a successful NQDC plan, and the traditional methods of providing information quarterly or annually have proven to be unacceptable. Since plan sponsors are receiving information and changes on a daily basis, the chances of a mismatch between the values of plan assets and liabilities have traditionally been high. Finally, participants were previously largely uninformed as to the value of their deferred money and benefits. Participants traditionally received a statement once a year, with no projections, and little information as to how the benefit was calculated. The death of information available to sponsors and participants has caused many companies to avoid the use of NQDC plans, thereby denying participants a chance at benefit restoration. (Note abstract and see column 2 lines 26-54 and column 8 lines 15-45 and column 9 lines 55-67 and column 10 lines 1-31).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Morgan to include plan providing a reallocation of at least a portion of the client's assets by purchasing a series of pre-paid death benefit amounts each of said pre-paid death benefit amounts being purchased by a one time premium taught by Facciani in order to manage assets and liabilities and determine whether changes in asset allocation are required.

As per claim 2, Moran discloses wherein the step of defining the categories includes defining a first category for assets that are generally non-liquid and intended for personal enjoyment of the client.(see column 24 lines 6-8 an column 42 lines 10-42).

As per claim 3, Moran discloses wherein the step of defining the categories includes defining a second category for cash and cash-equivalent assets that are generally intended for reserve capital purposes. (see column 42 lines 10-40).

As per claims 4, Moran discloses wherein the step of defining the categories includes defining a third category for unprotected assets that are generally growth oriented anal intended for funding retirement of the client. (see column 42 lines 10-40).

As per claims 5, Moran discloses wherein the step of defining the categories includes defining a fourth category for protected assets that are generally exempt from creditors and intended for providing retirement protection and estate liquidity. (see column 42 lines 10-40).

As per claim 6, Moran discloses further comprising the step of defining a life insurance product.(see column 42 lines 10-40) said product being a protected asset having a pre-paid death benefit amount purchased with a one time premium and providing a series of additional pre-paid death benefit amounts each purchased with a one time premium as scheduled for future purchase.(Note abstract and see 17 lines 5-65 and column 18 lines 35-60 and column 19 lines 1-10).

As per claim 7, Moran discloses wherein the defined life insurance product a pre-paid, variable life insurance product. (Note abstract and see 17 lines 5-65 and column 18 lines 35-60).

As per claim 8, Moran discloses wherein the step of defining the life insurance product includes maximizing cash value of the product per premium dollar by removing up-front loads and reducing ongoing charges. (see column 42 lines 5-42).

As per claim 9, Moran discloses wherein the step of defining the life insurance product includes minimizing "at risk mortality" casts by cash value purchasing a minimum desired amount of life insurance. (see column 20 lines 20-43).

As per claims 10 wherein the plan for re-allocating the clients assets includes consuming unprotected assets before protected assets. (see column 46 lines 10-23).

As per claim 11, Moran discloses wherein the plan for re-allocating the clients assets further includes consuming the defined life insurance product after other protected assets. (see column 46 lines 10-23).

As per claim 12, Moran discloses wherein the step of performing the liquidity analyses includes determining asset protection needs of the client. (see column 42 lines 10-40).

As per claim 13, Moran discloses wherein the step of performing the liquidity analyses includes executing a plurality of modules for analyzing the categorized assets. (Note abstract and see 17 lines 5-65 and column 18 lines 35-60).

As per claim 14, Moran discloses wherein the liquidity analyses modules include a current liquidity module, said current liquidity module comprising the steps of analyzing the categorized assets and determining the current liquidity of the chant's assets. (see column 42 lines 10-40).

As per claim 15, Moran discloses wherein executing the retirement protection module, said retirement protection module comprising defining retirement goals of the client, calculating the amount of assets needed in each of the defined categories to meet the defined retirement goals, analyzing the categorized assets end determining whether the client's assets meet the defined retirement goals. (see column 16 lines 25-45 and column 42 lines 5-42).

As per claim 16, Moran discloses wherein the retirement protection module: further comprises the step of calculating an amount of non-exempt assets to convert to exempt assets based on a projected rate of consumption of assets relative to the client's retirement goals. (see column 16 lines 25-45 and column 42 lines 5-42).

As per claim 17, Moran discloses wherein the retirement protection modules further comprises the step of calculating a systematic asset allocation schedule for converting the non-exempt assets to exempt assets. (see column 46 lines 10-23).

As per claim 18, Moran discloses wherein the liquidity analyses modules include estate tax liquidity and estate tax reduction modules, said estate tax liquidity and reduction modules comprising the steps of defining estate protection goals of the client, calculating the amount of assets needed in each of the defined categories to meet the defined estate protection goals, analyzing the categorized assets and determining whether the client's assets meet the defined estate protection goals. (see column 16 lines 25-45 and column 42 lines 5-42).

As per claim 19, Moran discloses wherein the steps of categorizing the client's assets, performing the liquidity analyses and generating the plan for re-allocating the client's assets are executed on a computer. (see column 39 lines 34-41).

5. Claims 20-25, are rejected under 35 U.S.C. 102(e) as being anticipated by Ryan et al(Hereinafter Ryan U.S. Patent No. 5, 802, 500).

As per claims 20-25 Ryan discloses a computerized process for defining a pre-paid, variable life insurance product comprising the steps of defining a premium;
determining a cash value of the product based on the premium
defining a pre-paid death benefit purchased with the premium based on the cash value of the product (see column 4 lines 5-65 and column 6-10 lines 5-65)
investing the cash value of the product in one or more investment accounts;
adjusting the cash value of the product as a function of gains and losses on the investment accounts and defining the pre-paid death benefit purchased with the premium based on the adjusted cash value of the product.(see column 3 lines 19-56 and column 4 lines 5-65 and column 6-10 lines 5-65).

6. Claims 26-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moran U.S. Patent No. 6, 430, 542) Ryan et al in view of (Hereinafter Ryan U.S. Patent No. 5, 802, 500) in view of Facciani et al (Hereinafter Facciani U.S. Patent No. 5, 999, 917).

Claims 26-34 Moran discloses a computer-readable medium having computer-executable modules comprising:
a current liquidity module for performing a liquidity analysis to determine a current value of assets of a client if liquidated at present, each of said assets being categorized in one of a plurality of asset categories based on type and purpose of the assets, said liquidity analysis being a function of the asset categories.(Note abstract and see 17 lines 5-65 and column 18 lines 35-60) a projected liquidity module for performing the liquidity analysis to determine a projected value of the assets of the client if liquidated at a projected retirement age of the client a retirement protection module for generating a plan to re-allocate the assets of the client among the asset categories based on the liquidity analyses to provide protection of retirement landing for the client (see column

26 lines 23-65 and column 27 lines 1-9) said plan including re-allocating at least a portion of the assets(see column 42 lines 10-40 and abstract and see 17 lines 5-65 and column 18 lines 35-60 and (see column 46 lines 10-23) and variable life insurance product having a one time premium at relatively lower risk. (see column 42 lines 10-40 and abstract and see 17 lines 5-65 and column 18 lines 35-60 and (see column 46 lines 10-23).

Moran Fail to explicitly teach prepaid.

However Ryan discloses a computer and a data processing system, and methods involving the same, applied to the financial fields of insurance and benefit funding. More particularly, this invention relates to a computer system for analyzing and projecting the after-tax cash flow and the balance sheet and income statement consequences of a pre-funding program for Other Postretirement Employee Benefits (OPEBs).(see column 3-4 line 5-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include prepaid taught by Ryan in order to pre-fund benefits.

Morgan and Ryan fail to explicitly teach providing for a reallocation.

However Facciani discloses the regulations that apply to these plans restrict the manner in which these plans can be funded. In essence, companies may not directly fund the liabilities created by these plans, whereas the companies can directly fund their qualified plans. Instead of providing direct funding, a plan sponsor invests the unsecured deferrals in financial instruments of the plan sponsor's choosing (e.g., mutual funds, variable policy insurance policies, etc.) to cover the liability corresponding to each participant's investment choices. Because plan sponsors may not actually be investing in funds similar to the funds requested by the plan participants, plan sponsors need to have more immediate access to information regarding their plans. This enables the sponsor to cover its liabilities by reallocating its assets as participants reallocate their assets. The volume and timeliness of information is critical to a successful NQDC plan, and the traditional methods of providing information quarterly or annually have proven to be unacceptable. Since plan sponsors are receiving information and changes on a daily basis, the chances of a mismatch between the values of plan assets and

liabilities have traditionally been high. Finally, participants were previously largely uninformed as to the value of their deferred money and benefits. Participants traditionally received a statement once a year, with no projections, and little information as to how the benefit was calculated. The dearth of information available to sponsors and participants has caused many companies to avoid the use of NQDC plans, thereby denying participants a chance at benefit restoration. (Note abstract and see column 2 lines 26-54 and column 8 lines 15-45 and column 9 lines 55-67 and column 10 lines 1-31).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Morgan and Ryan to include plan providing a reallocation of at least a portion of the client's assets by purchasing a series of pre-paid death benefit amounts each of said pre-paid death benefit amounts being purchased by a one time premium taught by Facciani in order to manage assets and liabilities and determine whether changes in asset allocation are required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 35-43, are rejected under 35 U.S.C. 102(e) as being anticipated by Facciani et al (Hereinafter Facciani U.S Patent 5, 999, 917).

As per claims 35, 41-43 Facciani discloses computer implemented method comprising:

calculating an adjusted pre-paid death benefit mount based at least in part on a first one time premium amount a second one time premium amount, said first one time premium amount being paid on behalf of an individual purchasing a first pre-paid death benefit amount and said second one time premium amount being paid on behalf of said individual purchasing a second pre-paid death benefit amount;

generating a plan sufficient to describe at least one of: said first pre-paid death benefit

amount said second pre-paid death benefit amount and said adjusted pre-paid death benefit amount. (Note abstract and see column 2 lines 26-54 and column 8 lines 15-45 and column 9 lines 55-67 and column 10 lines 1-31).

As per claim 36, Facciani discloses wherein: said adjusted pre-paid benefit amount is based in part on at least one of: modified amount, an a said second modified amount; and said first modified and second modified amounts are modified by one or more of; an account charge a received premium a morality charge an optional term insurance charge and an investment performance amount.(see column 2 lines 26-54 and column 8 lines 15-45 and column 9 lines 55-67 and column 10 lines 1-31).

As per claim 37, Facciani discloses wherein said first modified amount represents a first cash value of a said first pre-paid death benefit amount and said second modified represents a second cash value of said second pre-paid death benefit amount.

Claim 38 (new): 'further comprising updating at least one of said adjusted first and second pre-paid death benefit amounts daily. (see column 2 lines 26-54 and column 8 lines 15-45 and column 9 lines 55-67 and column 10 lines 1-31).

As per claim 39, Facciani discloses further comprising investing at least part of said first and part of said second one time premium amounts.

As per claim 40, Facciani discloses wherein said adjusted pre-paid death benefit amount is based in part on said investing. (see column 2 lines 26-54 and column 8 lines 15-45 and column 9 lines 55-67 and column 10 lines 1-31).

Conclusion

Response to Arguments

8. Applicant 's arguments filed on 07/5/2005 have been fully considered but they are not persuasive for the following reasons.

10. In response to Applicant's arguments as it pertains to Morgan, Facciani and Ryan.

11. In response to Applicant's arguments that prior art of references fail to teach or suggest" determining assets of the client defining a plurality of asset categories based on type and purpose of asset categorizing the client's assets in the defined categories and performing liquidity analyses of the categorized assets to determine current estate

liquidity and projected future estate liquidity of the client and executing a computerized retirement protection to generate a plan for re-allocating the client's assets among the defined categories based on the liquidity analyses and defining a premium, determining a cash value of the product based on the premium
defining a pre-paid death benefit purchased with the premium based on the cash value of the product investing the cash value of the product in one or more investment accounts, adjusting the cash value of the product as a function of gains and losses on the investment accounts and defining the pre-paid death benefit purchased with the premium based on the adjusted cash value of the product and a plan providing a reallocation of at least a portion of the client's assets by purchasing a series of pre-paid death benefit amounts each of said pre-paid death benefit amounts being purchased by a one time premium and a current liquidity module for performing a liquidity analysis to determine a current value of assets of a client if liquidated at present, each of said assets being categorized in one of a plurality of asset categories based on type and purpose of the assets, said liquidity analysis being a function of the asset categoriesa projected liquidity module for performing the liquidity analysis to determine a projected value of the assets of the client if liquidated at a projected retirement age of the client a retirement protection module for generating a plan to re-allocate the assets of the client among the asset categories based on the liquidity analyses to provide protection of retirement landing for the client said plan including re-allocating at least a portion of the assets and variable life insurance product having a one time premium at relatively lower risk and pre-paid and calculating an adjusted pre-paid death benefit mount based at least in part on a first one time premium amount a second one time premium amount, said first one time premium amount being paid on behalf of an individual purchasing a first pre-paid death benefit amount and said second one time premium amount being paid on behalf of said individual purchasing a second pre-paid death benefit amount, generating a plan sufficient to describe at least one of said first pre-paid death benefit amount said second pre-paid death benefit amount and said adjusted pre-paid death benefit amount and providing for a reallocation" the examiner disagrees with Applicant's because these limitations are addressed as stated,

Morgan discloses determining assets of the client see column 42 lines 10-40 defining a plurality of asset categories based on type and purpose of asset categorizing the client's assets in the defined categories Note abstract and see 17 lines 5-65 and column 18 lines 35-60 and performing liquidity analyses of the categorized assets to determine current estate liquidity and projected future estate liquidity of the client see column 26 lines 23-65 and column 27 lines 1-9 and executing a computerized retirement protection to generate a plan for re-allocating the client's assets among the defined categories based on the liquidity analyses see column 46 lines 10-23.

Ryan discloses defining a premium, determining a cash value of the product based on the premium defining a pre-paid death benefit purchased with the premium based on the cash value of the product see column 4 lines 5-65 and column 6-10 lines 5-65 investing the cash value of the product in one or more investment accounts adjusting the cash value of the product as a function of gains and losses on the investment accounts and defining the pre-paid death benefit purchased with the premium based on the adjusted cash value of the product see column 3 lines 19-56 and column 4 lines 5-65 and column 6-10 lines 5-65 and a computer and a data processing system, and methods involving the same, applied to the financial fields of insurance and benefit funding. More particularly, this invention relates to a computer system for analyzing and projecting the after-tax cash flow and the balance sheet and income statement consequences of a pre-funding program for Other Postretirement Employee Benefits (OPEBs) see column 3-4 line 5-65.

Facciani discloses the regulations that apply to these plans restrict the manner in which these plans can be funded. In essence, companies may not directly fund the liabilities created by these plans, whereas the companies can directly fund their qualified plans. Instead of providing direct funding, a plan sponsor invests the unsecured deferrals in financial instruments of the plan sponsor's choosing (e.g., mutual funds, variable policy insurance policies, etc.) to cover the liability corresponding to each participant's investment choices. Because plan sponsors may not actually be investing in funds similar to the funds requested by the plan participants, plan sponsors need to have more immediate access to information regarding their plans. This enables

the sponsor to cover its liabilities by reallocating its assets as participants reallocate their assets. The volume and timeliness of information is critical to a successful NQDC plan, and the traditional methods of providing information quarterly or annually have proven to be unacceptable. Since plan sponsors are receiving information and changes on a daily basis, the chances of a mismatch between the values of plan assets and liabilities have traditionally been high. Finally, participants were previously largely uninformed as to the value of their deferred money and benefits. Participants traditionally received a statement once a year, with no projections, and little information as to how the benefit was calculated. The death of information available to sponsors and participants has caused many companies to avoid the use of NQDC plans, thereby denying participants a chance at benefit restoration Note abstract and see column 2 lines 26-54 and column 8 lines 15-45 and column 9 lines 55-67 and column 10 lines 1-31 and calculating an adjusted pre-paid death benefit mount based at least in part on a first one time premium amount a second one time premium amount, said first one time premium amount being paid on behalf of an individual purchasing a first pre-paid death benefit amount and said second one time premium amount being paid on behalf of said individual purchasing a second pre-paid death benefit amount, generating a plan sufficient to describe at least one of: said first pre-paid death benefit amount said second pre-paid death benefit amount and said adjusted pre-paid death benefit amount Note abstract and see column 2 lines 26-54 and column 8 lines 15-45 and column 9 lines 55-67 and column 10 lines 1-31.

It is clear Applicant's claimed limitations were addressed within the teachings of Morgan, Facciani and Ryan.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

September 28,2005

F Pom

FRANTZY POINVIL
PRIMARY EXAMINER
Au 3628